

to the penalties imposed by Federal law for the commission of a Class B misdemeanor offense.

(b) Whoever violates any rule or regulation enumerated in this part is liable to the United States for a civil penalty of not more than \$1,000.

(c) Nothing in this part shall be construed to abrogate any other Federal laws.

PART 235—SALE OR RENTAL OF SEXUALLY EXPLICIT MATERIAL ON DOD PROPERTY

Sec.

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AUTHORITY: 10 U.S.C. 2489a.

SOURCE: 71 FR 66459, Nov. 15, 2006, unless otherwise noted.

§ 235.1 Purpose.

This part implements 10 U.S.C. 2489a, consistent with DoD Instruction 1330.09,¹ by providing guidance about restrictions on the sale or rental of sexually explicit materials on property under the jurisdiction of the Department of Defense or by members of the Armed Forces or DoD civilian officers or employees, acting in their official capacities.

§ 235.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to as the “DoD Components”).

(b) Shall not confer rights on any person.

¹Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

§ 235.3 Definitions.

For the purpose of this part, the following definitions apply:

Dominant theme. A theme of any material that is superior in power, influence, and importance to all other themes in the material combined.

Lascivious. Lewd and intended or designed to elicit a sexual response.

Material. An audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium.

Property under the jurisdiction of the Department of Defense. Commissaries, facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps Exchanges, and ship stores.

Sexually explicit material. Material, the dominant theme of which is the depiction or description of nudity, including sexual or excretory activities or organs, in a lascivious way.

§ 235.4 Policy.

It is DoD policy that:

(a) No sexually explicit material may be offered for sale or rental on property under the DoD jurisdiction, and no member of the Armed Forces or DoD civilian officer or employee, acting in his or her official capacity, shall offer for sale or rental any sexually explicit material.

(b) Material shall not be deemed sexually explicit because of any message or point of view expressed therein.

§ 235.5 Responsibilities.

(a) The Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD((P&R))), under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Monitor and ensure compliance with this part.

(2) Establish a Resale Activities Board of Review (the “Board”) and approve senior representatives from the Army and Air Force Exchange Service, the Navy Exchange Service Command, and the Marine Corps Exchange Service; and approve a senior representative from each of the Military Departments, if designated by the Military Department concerned, to serve as